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September 14, 2016

File No.
25943.2298

VIA ECF
The Honorable Steven I. Locke
United States Magistrate Judge
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: ***Borokhovich et al v. Bankers Standard Insurance Company et al.***
Civil Case No. 2:14-cv-07182-JS-SIL
Our File No. 25943-2298

Dear Honorable Sir:

We are pleased to advise the court that this matter has been resolved. Attached is a copy of the Settlement and Release Agreement. The settlement funds will be issued shortly and plaintiff's counsel will thereafter file the Stipulation of Dismissal.

Respectfully submitted,

Daniel J. Fox
LEWIS BRISBOIS BISGAARD & SMITH LLP

cc: Moshe Singer, Esq.
Pinczewski & Shpelfogel, P.C.
2753 Coney Island Avenue, 2nd Floor
Brooklyn, New York 11235

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement"), executed by the signatories set forth below, is made with reference to the following facts:

A. Gennady Borokhovich and Elena Borokhovich filed an action against Bankers Standard Insurance Company ("Defendant") in the United States District Court for the Eastern District of New York, Case No. 2:14-cv-07182 (JS)(SIL) (the "Action") to recover insurance proceeds under an insurance policy issued by Defendant, bearing Policy No. 268-01-15-51 (the "Policy"), for losses arising from and/or related to a fire that occurred on or about February 10, 2013 at the property known as 1310 Seawane Drive, Hewlett Harbor, NY 11557 (the "Property").

B. By this Agreement, Defendant promises to pay the sum of $179,000.00. In addition to the $179,000 that will be paid for contents and additional living expenses, it was agreed that since Plaintiff and their mortgage holder Citimortgage, Inc., did not cash a previously issued check for $100,000 for building damage, and said check has expired, that these funds would be re-issued. Thus, the total amount to be paid is $279,000 (the "Settlement Amount").

C. By Order of the Court dated August 10, 2016, the action was amended to remove Gennady Borokhovich as a plaintiff. Gennady Borokhovich hereby withdraws all claim(s), with prejudice, for losses and damage as a result of the fire on or about February 10, 2013 at the Property under the Policy and/or any right or interest in the Settlement Amount. The only remaining plaintiff in the Action is Elena Borokhovich ("Plaintiff").

D. The Settlement Amount shall be made by checks delivered to Plaintiff's counsel, Pinczewski & Shpelfogel, P.C., 2753 Coney Island Avenue, 2nd Floor, Brooklyn, New York 11235, and payable as follows: (1) the sum of $179,000.00, payable to Pinczewski & Shpelfogel, P.C. and Elena Borokhovich, for additional living expenses and loss of contents; and (2) the sum of $100,000.00, payable to Pinczewski & Shpelfogel, P.C., Elena Borokhovich and Citimortgage, Inc., for building loss. Thus, the total payment by Defendant shall be $279,000.00. Defendant shall deliver the Settlement Amount to counsel for Plaintiff within twenty-one (21) days receipt of the original executed Settlement Agreement and Release from Plaintiff.

E. Upon receipt and clearance of the Settlement Amount, Counsel for Plaintiff shall execute and file a Stipulation of Dismissal of the Action with prejudice within ten (10) days. The deposit and clearance of the Settlement Amount shall complete settlement of the claims and causes of action Plaintiff may have against Defendant as set forth in, arising out of, and/or related to the Action.

F. Plaintiffs and their counsel, Pinczewski & Shpelfogel, P.C., agree that the Settlement Amount will be held in escrow by them for at least thirty (30) days from the date the executed Settlement Agreement and Release is provided to Defendant's counsel, Seth I. Weinstein, Esq. of Lewis Brisbois Bisgaard & Smiith, LLP via e-mail at seth.weinstein@lewisbrisbois.com.

NOW THEREFORE, in consideration of the terms and conditions contained herein, it is agreed as follows:

1. All of the statements and representations in the preceding recitals are incorporated into and made a material part of this Agreement.

2. Upon deposit of and clearance of the Settlement Amount, counsel for Plaintiff will file a Stipulation of Dismissal of the Action with prejudice within ten (10) days.

3. Plaintiff and Defendant agree that the payment of the Settlement Amount represents settlement of claims that were contested and nothing herein shall be construed as an admission by Defendant of any kind.

4. Upon execution hereof and receipt of the Settlement Amount pursuant to this Agreement, Plaintiff do hereby release and absolutely discharge Defendant and their employees, officers, owners, representatives, partners, members, agents, parent companies, subsidiaries, attorneys, successors, and assigns (hereafter "Defendant related parties") of and from any all claims, liens, demands, actions, declaratory judgment actions, breach of contract actions, bad faith actions, damages, consequential damages, punitive damages, obligations, debts, liabilities, agreements, attorney's fees, interest, costs, fees, expenses, actions, and causes of action of every kind and nature whatever, at law or in equity, known or unknown, suspected or unsuspected, that Plaintiffs, or their principals, assignors or predecessors ever had, now have, or hereafter shall or may have against Defendant and the Defendant related parties, in any way arising out of or in connection with the Action. The claims released by Plaintiff under this agreement shall include, but not be limited to, any claims for consequential, punitive, or other damages of any kind, any claims of "bad faith" insurance practices, unfair trade or claims handling practices or breach of the implied covenant of good faith and fair dealing, whether arising under any statute, regulation or case law, and any and all rights and claims that Plaintiff may have pursuant to any applicable statute,

regulation or case law for any alleged failure to effectuate prompt, fair or equitable claim handling, payment, or settlement of insurance claims, whether arising in contract, tort, or in any other manner.

5. This Agreement shall be admissible in Court and is and shall be enforceable, binding upon and inure to the benefit of Plaintiff on the one hand and Defendant on the other hand, and their employees, agents, predecessors, principals, representatives, officers, directors, owners, members, insurers, partners, successors and assigns.

6. This Agreement shall not in any way be considered an admission of wrongdoing or liability by any party, person or entity named or described herein.

7. The parties hereby acknowledge that this Agreement is an integrated agreement and the entire agreement by and between the parties with respect to the subject matter hereof and supersedes all prior and/or contemporaneous written, oral and/or implied agreements and discussions, if any, with respect to the subject matter hereof.

8. The parties covenant, represent, and acknowledge that they have carefully read and fully understand all of the provisions of this Agreement, that they are voluntarily entering into this Agreement, and that they have the capacity to enter into this Agreement. The Parties represent and acknowledge that they have been given the opportunity to seek independent legal advice from attorneys of their own choice with respect to the advisability of executing this Agreement.

9. This Agreement may not be altered, amended, modified or otherwise changed in any respect or particular whatsoever, except by a writing duly executed by authorized representatives of each signatory hereto.

10. Each signatory hereto warrants and represents that the person executing this Agreement on his/her/its behalf is legally competent to and is authorized to execute this Agreement and to bind said party to its representations, terms, conditions, and covenants as set forth herein.

This Agreement may be signed in duplicate counterpart and shall have the same force and effect as the original thereof. This Agreement shall be construed as if the parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

11. This Agreement shall be subject to, governed by, interpreted and enforced pursuant to the laws of the State of New York, without regard to conflicts of law principles. The parties shall bear their own attorney fees, costs and expenses incurred in the Action and preparation and review of this Agreement. This Agreement is and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, affiliates, predecessors, successors, and assigns.

12. This Agreement may be signed by facsimile or pdf signature and such signature shall be deemed to be an original.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth on the first page hereof.

Elena Borokhovich

____

Date: 8/30/16

In presence of:

STATE OF New York)
) ss.:
COUNTY OF Kings)

On this 30 day of August, 2016, before me personally came Elena Borokhovich to me known to be the person described in and who executed the foregoing **SETTLEMENT AGREEMENT** and **RELEASE** in the name of ELENA BOROKHOVICH and she acknowledged that she executed the same as the act and deed of said ELENA BOROKHOVICH and for the uses and purposes therein mentioned.

____
NOTARY PUBLIC

LARISA SHADKHIN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SH6220079
Qualified in Kings County
My Commission Expires April 12, 20 18

Gennady Borokhovich

____

Date: 8/30/16

In presence of:

STATE OF New York)
ss.:
COUNTY OF Kings)

On this 30 day of August, 2016, before me personally came GENNADY BOROKHOVICH and to me known to be the person described in and who executed the foregoing **SETTLEMENT AGREEMENT and RELEASE** in the name of GENNADY BOROKHOVICH and he acknowledged that he executed the same as the act and deed of said GENNADY BOROKHOVICH and for the uses and purposes therein mentioned.

NOTARY PUBLIC

LARISA SHADKHIN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SH6220079
Qualified in Kings County
My Commission Expires April 12, 20 18

Bankers Standard Insurance Company, Incorrectly sued herein as Bankers Standard Insurance Company d/b/a ACE Group a/k/a ACE Private Client Services

By:
Name: Lawrence D. D'Avenia
Title: AVP, Claims Manager
Date: 9/14/2016

In presence of:

STATE OF PA)
ss.:
COUNTY OF Bucks)

On this 14 day of September, 2016, before me personally came Lawrence D. Davenia and to me known to be the person described in and who executed the foregoing **SETTLEMENT AGREEMENT and RELEASE** in the name of BANKERS STANDARD INSURANCE COMPANY and he acknowledged that he executed the same as the act and deed of said BANKERS STANDARD INSURANCE COMPANY and for the uses and purposes therein mentioned.

NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
AMIE LEE BENNER
Notary Public
SPRINGFIELD TWP, BUCKS COUNTY
My Commission Expires Jan 28, 2019

MITCHELL B. SHPELFOGEL, ESQ.
Pinczewski & Shpelfogel, P.C.
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